

JUDGE JONES

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

10 CIV 1366

ROYAL BUTTERFLY, LLC,

) Case No. _____

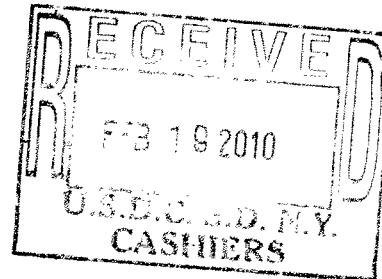
) *Plaintiff,*

) NOTICE OF REMOVAL TO THE
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
NEW YORK

) - against -

) **BARNES BAY DEVELOPMENT, LTD.,
INC., KOR HOTEL MANAGEMENT, LLC,
KOR REALTY GROUP, LLC, and
BRADFORD KORZEN,**

) *Defendants.*



Defendants Barnes Bay Development, Ltd., Inc. ("Barnes Bay"), Kor Hotel Management, LLC ("Hotel Management"), Kor Realty Group, LLC ("Realty") and Bradford Korzen ("Korzen") (collectively, "Defendants"), through their counsel, respectfully submit this Notice of Removal to the United States District Court for the Southern District of New York ("Notice of Removal") of the above-captioned action, Index No. 110262/2009, from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446. In support of this Notice for Removal, Defendants state as follows:

I.

INTRODUCTION

1. On or about July 21, 2009, Royal Butterfly, LLC ("Plaintiff") commenced this action against Defendants by filing a Summons and Complaint in the Supreme Court of the State of New York, County of New York ("Complaint"). A true and correct copy of the Complaint is attached hereto as Exhibit A and is incorporated herein by reference.

2. Plaintiff served Defendants with the Complaint on July 27, 2009.
3. Plaintiff alleges that Barnes Bay breached a certain Purchase and Sale Agreement between Barnes Bay and Plaintiff, dated May 21, 2005, by failing to close on a condominium in Anguilla by December 31, 2008 (the "Property").
4. On January 21, 2010, Justice Charles Ramos of the New York State Supreme Court dismissed Defendant Citigroup, Inc. ("Citigroup") from the action pursuant to Citigroup's Motion to Dismiss for failure to state a claim.
5. Defendants file this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

II.

BASES FOR REMOVAL

6. Removal is proper because, now that Citigroup has been dismissed from the action, there is complete diversity between the parties.
7. Plaintiff is a limited liability company whose principal is, based upon information and belief, a citizen and resident of the State of New York.
8. None of Defendants are citizens or residents of the State of New York:
 - a. Barnes Bay is incorporated and has its principal place of business in the island of Anguilla.
 - b. The individual members of Hotel Management are citizens and residents of the State of California and the United Arab Emirates.
 - c. The individual members of Realty are citizens and residents of the State of California.
 - d. Korzen is a citizen and resident of the State of California. His address is North Hilcrest Road, Beverly Hills, California 90210-2608.

9. The amount in controversy exceeds \$75,000, excluding interest and costs, because Plaintiff alleges that it is entitled to the return of its \$1 million deposit on the Property.

10. All process, pleadings and orders served upon Defendants in the removed action are attached to this Notice of Removal, as required by 28 U.S.C. § 1446(a), as Exhibit B.

11. Removal to the United States District Court for the Southern District of New York is proper under 28 U.S.C. § 1441(a) because this district and division embrace the location where the removed action is pending.

12. Defendants will promptly file a copy of this Notice of Removal with the clerk of the court where the action was pending.

13. Defendants submit and sign this Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure.

14. Plaintiff was served with this Notice of Removal on Friday, February 19, 2010.

III.

CONCLUSION

15. For all of the foregoing reasons, this action is properly removed to the United States District Court for the Southern District of New York.

Dated: February 19, 2010

Respectfully submitted,

BICKEL & BREWER

By:



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ATTORNEYS FOR DEFENDANTS

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Bradford Korzen*